

LUCIAN ROACH, DOING BUSINESS AS THE RIVERSIDE
LUMBER CO.

MAY 20, 1958.—Committed to the Committee of the Whole House and ordered
to be printed

Mr. LANE, from the Committee on the Judiciary, submitted the
following

REPORT

[To accompany H. R. 12261]

The Committee on the Judiciary, to whom was referred the bill (H. R. 12261) for the relief of Lucian Roach, doing business as the Riverside Lumber Co., having considered the same, report favorably thereon without amendment and recommend that the bill do pass.

An identical bill was favorably reported and passed the House in a previous Congress.

The purpose of the proposed legislation is to pay the sum of \$465.81 to Lucian Roach, doing business as the Riverside Lumber Co., Savannah, Tenn., in full settlement of all claims of said Lucian Roach against the United States for refund of taxes erroneously paid by him under the Federal Unemployment Tax Act for the years 1942 and 1943.

STATEMENT OF FACTS

The Treasury Department is opposed to this legislation on the grounds that the statute of limitations has run. The report from the Department gives the history of the claim.

After consideration, the committee is of the opinion that this company should be reimbursed in the amount as set forth in the bill.

The report of the Department, together with other pertinent evidence, is attached hereto and made a part of this report.

TREASURY DEPARTMENT,
Washington, December 5, 1951.

Hon. EMANUEL CELLER,
*Chairman, Committee on the Judiciary,
House of Representatives, Washington, D. C.*

MY DEAR MR. CHAIRMAN: Further reference is made to your letter, dated August 13, 1951, with which were enclosed copies of H. R. 5126 (82d Cong., 1st sess.), entitled "A bill for the relief of Lucian Roach, doing business as the Riverside Lumber Company." You request a report of the facts in the case as disclosed by the files of this office and an expression of opinion as to the merits of the bill.

H. R. 5126 provides, in part:

"That the Secretary of the Treasury is authorized and directed to pay, out of any money in the Treasury not otherwise appropriated, to Lucian Roach, doing business as the Riverside Lumber Company, Savannah, Tennessee, the sum of \$465.81. The payment of such sum shall be in full settlement of all claims of the said Lucian Roach against the United States for refund of taxes erroneously paid by him under the Federal Unemployment Tax Act for the years 1942 and 1943: * * *"

The files of the Bureau of Internal Revenue show that Lucian Roach filed timely returns, Form 940, under the Federal Unemployment Tax Act for the calendar years 1942 and 1943. Tax in the amount of \$337.45 was shown on the 1942 return, and tax in the amount of \$405.05 was shown on the 1943 return. The amounts reported as tax on the returns were paid. No credit for contributions to a State unemployment fund was claimed on either of the returns. On May 17, 1948, Lucian Roach, doing business as the Riverside Lumber Co., filed a claim for refund of \$303.70, tax paid under the Federal Unemployment Tax Act for the year 1942, and a claim for refund of \$364.55, tax paid under the Federal Unemployment Tax Act for the year 1943. The basis of the claim was that credit should be allowed against the Federal tax for contributions paid in 1948 into the State of Tennessee unemployment fund for the years 1942 and 1943. The tax reported on Mr. Roach's 1942 return was paid in four quarterly installments in 1943. The Bureau of Internal Revenue advised Mr. Roach in a letter dated June 7, 1948, that refund of any of the tax paid by him for the year 1942 was barred by section 3313 of the Internal Revenue Code. Such section prohibits a refund of tax after 4 years have elapsed since the time the tax was paid unless a claim therefor is filed before the expiration of such 4-year period. The tax assessed on the return filed by Mr. Roach under the Federal Unemployment Tax Act for the year 1943 was paid in four installments, such payments having been made on January 31, April 24, August 1, and November 1, 1944. Inasmuch as Mr. Roach's claim for refund of the 1943 tax was filed on May 17, 1948, which was more than 4 years after the payments made on January 31 and April 24, 1944, no portion of such payments could be refunded. Such claim was allowed in the amount of \$202.45, the full amount to which the claimant was entitled under existing law.

The Department takes the position that, the Congress having prescribed certain conditions under which a refund of tax may be made, a uniform application to all persons of such conditions should be maintained and taxpayers should not be singled out for special treatment

as proposed in H. R. 5126. Moreover, the enactment of the bill would probably open the way to further requests for relief of this character, thus giving rise to administrative difficulties sought to be avoided by the enactment of section 3313 of the Internal Revenue Code.

For the foregoing reasons this Department is not in favor of the enactment of H. R. 5126.

The Director, Bureau of the Budget, has advised the Treasury Department that there is no objection to the presentation of this report.

If further correspondence relative to this matter is necessary, please refer to IR:EmT:RR.

Very truly yours,

THOMAS J. LYNCH,
Acting Secretary of the Treasury.

LAW OFFICE OF JOHN J. CALDWELL,
Savannah, Tenn., July 29, 1951.

Congressman TOM MURRAY,
House Office Building, Washington, D. C.

DEAR CONGRESSMAN MURRAY: I acknowledge and thank you very much for your letter of July 13, 1951, to John Caldwell re the amount due me from the Bureau of Internal Revenue for the years 1942 and 1943.

1942:		
Tax paid	-----	\$337. 45
Correct tax	-----	—33. 74
		<hr/>
Due me for 1942	-----	\$303. 71
1943:		
Tax paid	-----	\$405. 05
Correct tax	-----	—40. 50
		<hr/>
Due me for 1943	-----	364. 55
		<hr/>
Refunded for 1943	-----	202. 45
		<hr/>
Net due me for 1943	-----	162. 10
		<hr/>
Total due for 1942 and 1943	-----	465. 81

Thank you very much for any measure of attention your office can give this matter.

Sincerely,

LUCIAN ROACH
(For Riverside Lumber Co., Savannah, Tenn.)

TREASURY DEPARTMENT,
INTERNAL REVENUE SERVICE,
OFFICE OF THE COLLECTOR, DISTRICT OF TENNESSEE,
Nashville 3, Tenn., April 14, 1948.

In re Lucian Roach, Savannah, Tenn.

Mr. JOHN J. CALDWELL,
Savannah, Tenn.

DEAR MR. CALDWELL: Receipt is acknowledged of your letter of April 6, in which you advise that your client, Mr. Lucian Roach, has made contributions into the State of Tennessee unemployment fund covering unemployment tax for the years 1942 through 1947.

This Office contacted Mr. John A. Travis of the Department of Employment Security, State of Tennessee, regarding the payments into the fund by Mr. Roach. For your information in order for taxpayer to claim credit on returns filed under the Federal Unemployment Tax Act all contributions must be paid into the State unemployment fund on or before January 31 of the year following for which the return is made. For example, the contributions for the year 1942 should have been made into the State unemployment fund on or before January 31, 1943. If payments are not made into the State unemployment fund as provided by law the employer can only claim credit for 90 percent of the amount he would have been allowed had payments been made on time. Since none of the payments made by Mr. Roach into the State unemployment fund were made on time the allowable credit for the years for which he can file claim for refund must be based on 90 percent of the 90 percent he would have been allowed had payments been made on time.

You are advised that because of the statute of limitations all years prior to the year 1944 are barred. This office has therefore prepared refund claims for Mr. Roach's signature and same are enclosed herewith for the years 1944, 1945, 1946, and 1947. It will be appreciated if you will have Mr. Roach sign the claims before a notary public and return to this office. Upon receipt of same they will be promptly forwarded to the Bureau in Washington for consideration. You will note that for the year 1947 this office has prepared claim for refund of \$105.07 and abatement of \$677.30. The reason for this is that Mr. Roach filed return for the calendar year 1947 indicating tax due in the amount of \$903.10; however, he elected to pay the tax in quarterly payments, and the return was received with remittance of \$225.80, the first quarterly payment.

As stated above the statute of limitations has expired on all years prior to 1944; however, this office is enclosing claim forms showing the amount of refund that would have been due Mr. Roach had the claims been filed within the 4-year period. There is no doubt that the Commissioner will disallow the claims for the years 1942 and 1943; however, if the client desires to file the claims you can complete same similar to the claims filed for the other years and return to this office properly signed by Mr. Roach.

SIPE HENSLEE, *Collector.*

